IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 68 OF 1999

Union of India ..Appellants

versus

Dashrath Sitaram Naik & Anr. ..Respondents

Mr. A. N. Samant for the Appellants.

Mr. C. J. Jha for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 20TH APRIL,2005

ORAL ORDER :

1. Heard learned counsel for the parties.

2. This application is filed by the Union of India against the order of Tribunal challenging the Award of compensation of Rs.4 lacs in a case of fatal accident. The Judgment of the Tribunal is very short but it goes to the root of the matter. Accident occurred while the deceased was travelling by train, he was standing at the door, there was a jerk to the train and as a result of which he fell down. In the circumstances, the Tribunal was justified in fixing the liability on the Railways. Amount of compensation is as provided by the

statute, therefore no interference is called for.

3. The only submission of Mr. Samant could be accepted is that interest awarded should be 9% instead of 12% and it should be from the date of the award. As regards interest at the rate of 9% per annum he relied upon the judgment of this court reported in **2005 (1) Mh.L.J. 165 Maharashtra State Electricity Board vs. Union of India.** It was a claim against the Railways and the interest was awarded ultimately by the High Court at 9% per annum. I had followed same judgment earlier, therefore the rate of interest is reduced to 9% per annum.

4. So far as the interest should be from the date of the Award, he relied upon the unreported judgment of **Justice Kochar dated 27.2.2002 in First Appeal No. 177 of 2002 with First Appeal No. 180 of 2002** wherein in paragraph 17 the learned Judge has stated **that the amount of compensation becomes payable after it is determined by the Tribunal and if thereafter the Railways fail to pay it can be directed to pay interest from the date of the order of the determination, but it cannot be directed to pay interest before the claim is ascertained or decided or determined by the Tribunal**. Mr. Samant, therefore contended that the interest awarded should

have been from the date of the order of the Tribunal. He also pointed out that this view of the Single Bench is now referred to the Larger Bench but as on today this view upholds.

5. In the result, I pass the following order:

ORDER

. Appeal is partly allowed. The amount of Rs.4 lacs will carry interest at the rate of 9% per annum from the date of the award. Union of India has deposited full amount, 50% has already been withdrawn by the respondents, he will be entitled to remaining amount and after calculation whatever remains balance shall be allowed to be withdrawn by the Union of India. No order as to costs so far as this Appeal is concerned.

20.04.2005 (D.G. DESHPANDE, J.)